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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/716,223 11/22/96 VAN SCHOUWENBURG

G 961170

EXAMINER

IM21/0917

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PITTSBURGH PA 15219-1818

ART UNIT PAPER NUMBER

DATE MAILED: 1761

09/17/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/716,223

Applicant(s)
Schouwneburg

Examiner
Curtis E. Sherrer

Group Art Unit
1761



☒ Responsive to communication(s) filed on Jul 13, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 3, 4, 7-12, and 14-20 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 3, 4, 7-12, and 14-20 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 13

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Part III DETAILED ACTION

Specification

1. The specification is again objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification makes no mention of combining the several methods of forming a coherent piece of meat, i.e., using acids and forcemeat. While Applicant states that page 4, lines 8-11 provide basis for said subject matter, no reference to forcemeat was found therein.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4, 7, and 9 to 12 and 14 to 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Weiner (U.S. Pat. No. 3,740,235) in view of Bauer et al. (Abstract of German Pat. No. 1,692,110) for the reasons set forth in the last Office Action.

4. Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Weiner (U.S. Pat. No. 3,740,235) in view of Bauer et al. (Abstract of German Pat. No. 1,692,110) and in further view of Gould (U.S. Pat. No. 4,517,888) for the reasons set forth in the last Office Action.

Response to Arguments

5. Applicant's arguments filed 07/13/98 have been fully considered but they are not persuasive.

6. Applicant asserts that "the method disclosed in the abstract of the Bauer et al patent requires heating, hence the sausage meat is not raw." It would appear that the sausage, like any sausage requires cooking "for consumption" but the patent does not state that the meat emulsion is cooked upon the addition of the acid. Further, and more to the point is that the primary reference Weiner teaches the production of meat that can contain other additives, such as seasonings. Bauer et al only provides those in the art with the knowledge that it is useful to add organic acids to raw meat. The fact that the patent's sausage should be cooked before consumption is not considered to lessen the value of the teaching. It is considered that the meat is raw when originally processed and therefore the value of using organic acids in meat emulsions is pertinent to those in the meat art.

7. Bauer et al. was relied on merely to teach a sausage emulsion additive which includes a non-toxic organic acid along with certain metal phosphates. While Applicant asserts there is no

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motivation to combine the cited references it is respectfully considered that *In re Levin* (cited in the last Office Action) provides the rationale for adding various old and well known food ingredients in new combinations. Therefore, the rejection stands and it is considered that said rejection presents a *prima facie* case of obviousness.

Conclusion

8. No claim is allowed.
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Holdren et al (U.S. Pat. No. 5,736,186) teaches the use of sodium chloride and acids in producing sausages.
10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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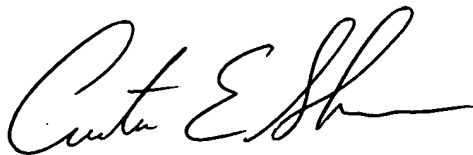
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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Sherrer whose telephone number is (703) 308-3847. The examiner can normally be reached on Monday through Friday from 6:00 to 2:30.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Lacey, can be reached on (703)-308-3535. The fax phone number for this Group is (703)-305-3602.

13. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

A handwritten signature in black ink, appearing to read "Curtis E. Sherrer". The signature is fluid and cursive, with the first name "Curtis" and last name "Sherrer" clearly distinguishable.

Curtis E. Sherrer

September 11, 1998